

BEFORE THE UNITED STATES FEDERAL ELECTION COMMISSION

In the Matter of:

Democratic Party of New Mexico, *et al.*,

Respondents

MUR 4643

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COMMISSION
OFFICE OF GENERAL
COUNSEL

DRIVE'S AND ITS TREASURER'S "NO REASON TO BELIEVE" SUBMISSION

The International Brotherhood of Teamsters Democratic-Republican-Independent Voter Education Political Committee ("DRIVE") and its Treasurer, Mr. Tom Sever (collectively, "Respondents"), hereby respectfully submit the following memorandum demonstrating there is no "reason to believe" that DRIVE made an illegal \$5,000 contribution to the New Mexico Democratic Party in 1997, as the New Mexico Republican Party has alleged in its October 24, 1997, Amended Complaint. For the following reasons, Respondents request that the Commission expeditiously dismiss this matter under review as against them pursuant to 11 C.F.R. § 111.7(b).

The Amended Complaint erroneously alleges that, on May 2, 1997, DRIVE made a \$5,000 contribution to the New Mexico Democratic Party that was, in Complainant's words, "earmarked" for Mr. Eric Serna, the Democratic candidate in the special election to fill U.N. Ambassador Bill Richardson's Third District House seat. Under the Complainant's misplaced theory, DRIVE's making of such contribution to the state party would have caused DRIVE to exceed its limits to Mr. Serna.

As a factual matter, DRIVE's contribution was not earmarked for Mr. Serna. (A copy of the contribution check is attached as Exhibit 1 hereto.) Rather, the contribution was made to the New Mexico Democratic Party generally for it to use as it saw fit.

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DRIVE's contribution cannot, moreover, be presumed to have been "earmarked " Mr Serna was running in the only federal (special) election held in New Mexico in 1997; however, federal law does not prohibit a political committee from contributing to a state party committee in an odd-numbered year in which a special election is held, even if that same contributor has "maxed out" to that party's special election candidate Nor does federal law prohibit a state party from soliciting funds that might be used to make expenditures pursuant to 2 U S C § 441a(d) on behalf of this candidate or to make the state party committee's own permissible direct contribution to him or her from another contributor to that candidate

Therefore, DRIVE's contribution to the New Mexico Democratic Party did not result in an impermissible contribution to Mr Serna Accordingly, DRIVE and Mr Sever respectfully request that the above-captioned matter under review be expeditiously dismissed as to them

Respectfully submitted this 15 day of December, 1997

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